

THE CROWBAR BILL.

There is a bill in the Ohio Legislature to authorize Treasurers forcibly to open the vaults of Banks and collect the tax wrongly assessed upon them. On this bill Mr. SHERBARGER, said:

I should not have said any thing upon the passage of this bill but for the fact that I have been connected with a select committee to which it had been referred, and having thought it not necessary to trouble the House with any minority report as to its merits, to now again, upon its passage, decline making any expression upon it, would admit of a misconception of my reasons for being silent. I hope, therefore, that the House will indulge me for a few moments to state—not argue—the objections to the passage of this bill. And first, I would state, negatively, that it was not because that bill sought to compel the banks to pay taxes, equal to that paid by others. That banks, in all cases, where we can legislate at all, should be taxed like other taxpayers, who deny now! None! That they were not so taxed in the past of Ohio, who is to blame? All! That there are such characters, exempting, to a greater or less extent, these banks from taxation, is an error of the past, if error it be, as I think it is. The question is not involved in this bill, as to whether there should have been such legislation. The only questions involved in which I shall notice are, "Is this law right and wise?" Or if right and wise in the abstract, "Is it necessary now, and will it do any good?"—Is legislation needed?

Now, Sir, it is notorious that there is no delinquent bank in Ohio, if they are right in the legal question they present to the courts, and I have said that these banks, proposed to be entered into, make a simple and single judicial question in this whole case—"Are we delinquent?" "Have we not paid all our taxes?" For the answer they have gone to our courts. They are your friends who make that court. Will you trust them with it? To that answer these banks say they will, and they must submit. I assert, Sir, and that a gentleman will deny, that you cannot prevent that appeal. By the law paramount, which is over you, and under you, and around you, and which made you, the legislator, that right to go into the courts is theirs. "All courts shall be open, and every person (for an injury done, * * * shall have remedy by due course of law." Is it replied that you do not seek to shut the courts? Then why this bill? True, you cannot. True, in spite of it, injunctions of the courts will forbid what your law commands until the question made is tried. But let us see whether it is not an attempt, (true, it must be abortive,) to prevent a trial of the question, and to collect these taxes, whilst the question as to whether they ever shall be collected, is in the courts for adjudication. Now, if this be not the object of the bill, let us look for some other. That it will be its effect, if its requirements are not defeated by the constitutional right of a trial, is too plain to argue. It makes the treasurers and prosecutors, under the penalties of their bonds and loss of office, break open all banks that have not paid these disputed taxes, and take the taxes. It makes no exception in favor of those who have the question of the legality of this very tax in the courts being tried. Then, if the law is executed, it will pay the taxes, concerning which the courts are now to say whether they are owed.

What other object can the law have? I answer, the same that it is in seizing or distraining any other property for taxes. To that I answer, that is not its object. For that right, the common right of distraint, now exists against these banks, in the most complete and ample form. If this bill was only meant to give against banks the right to distraint, then it is only and simply frivolous; for by the act of 1852, in sections 51 and 72, that right is fully recognized and wived, and that against "any corporation." Then this law is not to be passed to enable distraint to be made against others, for that's the law now for the collection of all legal taxes. What other motive have you in view? To make the Treasurers do their duty or forfeit their bond. But if the terms of those bonds, as they are now given by those in office, and as they must be given by those coming in, (for the statute now fixes the conditions of those bonds,) does not now cover what this bill seeks to make a forfeiture of the bond, then you cannot make it a forfeiture "by act of Assembly." Do you think, Sir, that we can enact that a note which reads for one hundred dollars shall be "taken and held" to be a note for two hundred? Probably you will not, though I am not sure. The bill does not say that bonds shall hereafter be so conditioned as to make this delinquency of the Treasurers a breach. Not at all. But this act shall be held a forfeiture whatever may be its conditions, and whether now in existence or not. If that be the object of the bill, then the bill's form is novel, considering its object. Then that is not what the bill is for. Is the object to disbar prosecuting attorneys for not prosecuting these treasurers? The law now provides for their removal and for disbaring all attorneys for cause. That is not the object of the bill. It is frivolous to extend this search for object further. They are manifestly not those I have noticed. But, Sir, is the object of this law a general design, with reference to these Banks, to provide a mode of collection of taxes more efficient than the law now furnishes? This is doubtless what is claimed. Let us see. It is seen that the law now provides the general right of distraint. What more does the law provide? If its provisions are now as thorough and ample for these collections as the provision of this act make them, or as they can be, consistently with the idea that the banks have a right to try this question at all, then the object of the bill cannot be to simply insure the collections of legal taxes, leaving to all the right to try the question of legality in the courts. Is the law now as effective as it can be, consistent with the right to a trial? By the 72d section of the act of 1852, the right of distraint is given. By the 51st section it is recognized. By the act defining the duties of County Treasurers, section 19th, it is required of those officers. But it may be said that under these acts "money" cannot be taken. Grant it, for the sake of argument. But what does the law provide for the case where distraint is ineffectual. Sir, it provides for just such a case, and its provisions are incomparably more effective than this bill. "That if the Treasurer shall be unable, by distraint or otherwise, to collect the taxes assessed upon any person or corporation, he shall apply to the Clerk of the Court of Common Pleas at any time after his settlement with the Auditor, and the Clerk shall give notice to such corporation requiring it, forthwith to show cause why it should not pay such taxes, and on the failure to show sufficient cause, at the term to which the notice is returnable, the court is required to enter a rule against it for the taxes and costs."

and that rule is made a judgment, to be enforced by attachment, execution, or such other process as the court may direct."—Section 51.

What can be more thorough? What more summary, that allows any trial? No appearance terms. No process. No declarations or pleas. No attorney to be employed. None of the "law's delays." Forthwith you get judgment, and you may use execution! If that won't do, you take out such other process as you want, under the court's order! Can you think of anything beyond this? I aver, Sir, there is nothing beyond it, except the mere power or the mob. Nothing that this act does not furnish, except that it allows the citizens, in the courts "to show cause," if he can, why his property should not be seized. All that this bill can do is the way of effectively securing the taxes, except organize the mob, the law does. Now, Sir, may I not claim that all this bill legitimately aims to do is to shut the courts. Sir, I have said you can't do that! So much the greater outrage in making the attempt.

Sir, I will only notice one other fact, indicating that the true object of this bill is to deprive these banks of the benefit of an appeal to the courts. A bill was presented to the House providing that these banks and others might pay all these taxes, and let their receipts from the Treasurers show what amount the tax payer thought was illegal, and then let him, within a short time, sue and recover it back if the courts say it is illegal. That bill is in its grave, and by the hands of the friends of this. What! not take this money? You want to "dig" out of the vaults with pickaxes and crowbars. That measure was approved by, I believe, every bank in Ohio. All would doubtless have paid this tax and tried their case, to get it back, in your courts. The friends of this bill would not have the money they now are "digging" for, if the taking was coupled with the right to try the question, (in a court composed of such "gentlemen's friends") as to whether this tax, thus taken, was illegal. What can demonstrate a notion if this be not!

Sir, what now is more clear than the object of the bill. It is by violence to deprive these citizens of a TRIAL. It is not the collection of a tax merely, but the collection of it so as to take away, if possible, all inquiry as to whether it is legal.

Sir, the courts in some cases have enjoined these treasurers from doing the very thing you compel these treasurers to do. Against these injunctions you compel them to proceed to collect. In other cases these banks have gone into your Supreme Court, and by the very provisions of the act which assesses this tax. There they are now awaiting, under the 74th section, the answer of your own supreme judicial power, to the question "do we owe these taxes." To that answer, or that of the court of last resort, they will bow. Will you say they shall not have it! If you will, then you should not pass this bill, for the law now makes all possible provisions for these collections that are at all compatible with the right of a trial. If you would not allow this answer to be had from the courts, pass the bill, and exhibit again, to the amusement of your State, a very impotent and harmless attempt at tyranny, against which the people are protected by the constitution.

Sir, it must not be said that in opposing this bill we justify a violation of law, or a less taxation of bankers than others. I justify neither. I am in favor, in all cases where we can, whether we have the power of taxing them as your constitution says they shall be taxed, "so that their burden of taxation shall be equal to that borne by the property of individuals."

I oppose the bill for the reason I have stated. That if these taxpayers are to have any trial at all, this act is utterly unnecessary. It is meant whilst these questions of the legality of these taxes are pending in the courts to compel their payment and take away this right of a trial, then it is unjust, oppressive, unconstitutional and abortive.

Sir, these banks ought to yield, in my judgment, any peculiar rights secured by their charters, and submit to be taxed as other property. This I am informed they are all ready to do, if they can have any guaranty they will be taxed. They are not, they are taxed, by the bill of last winter, as other property, and to try that question, they are compelled to resort to the courts. Will you let them try it? If not, pass the bill.

CENTRAL OHIO RAILROAD.

Its Completion to Columbus.

In spite of the difficulties, greater than we will probably ever be understood or appreciated by any except those having the work in charge, and against the predictions of persons of pretentious good judgment, that it could not be done before April, two trains daily, each way, are running over the whole track, between this city and Columbus.

We have no room to speak as fully on this subject as we desire; but we cannot refrain from congratulating the public, the Stockholders and Directors on this gratifying event. To the traveling public, and to the traveling interests of the region this Road traverses, it will open a great convenience and new theaters of action. To the Stockholders, the already large increase of passenger travel and the importance of freights waiting for the accommodations to trade which a few days more will furnish—these things give guarantee of satisfactory profits upon their investment independent of the beneficial result to trade and property. As evidence of the increase of confidence, since the opening, the stock of the Road is high—selling at 90 cents when there was a specific interest of 8 per cent when it was paid upon it, has advanced to 96 cents at Columbus, now that the profits of the Road are to be divided among the Stockholders instead of interest.

To show the strength of this line of Road in position and present and prospective connection, we understand that arrangements are now being perfected, by which, in connection with the Philadelphia, Wilmington and Baltimore, the Baltimore and Ohio, the Columbus and Xenia, the Little Miami, the Newark and Sandusky, the Toledo and Norwalk, the Michigan Southern and the Northern Indiana Rail Roads, will enable the traveler at Philadelphia, Baltimore, Washington, Wheeling, Columbus, Cincinnati, Sandusky, Toledo and Chicago, to obtain a through ticket to either of the other points. In this system, the Central Ohio Rail Road is a part; although the connection between it and the Baltimore Road, at Wheeling, will be made by Omnibus travel over the National Road.

In addition to this great convenience to the through passenger, we are informed that the Central and the Columbus and Xenia and Little Miami are to exchange accommodations in the way of freighting. Cars full laden with freight for Cincinnati leaving this place will be taken without change to Cincinnati and

there discharged; and return freights will follow a similar course either in the Cars of the Central or the Little Miami company. Besides this convenience and exemption from handling, it is the intention of the two Companies to put freights so low as to make this the reliable avenue for our southwestern trade.

These are some of the results, just brought within our grasp, of the public spirit manifested in the construction of this great Road And if such things show themselves in the twigs what will they be when the matured tree shadows the land with its branches!—Zanes. Gaz.

FOREIGN NEWS.

ARRIVAL OF THE ARCTIC.

NEW YORK, January 25. The steamer Arctic arrived this afternoon, at half-past 5 o'clock. She sailed from Liverpool on the 12th, and brings 49 passengers.

The Hermann sailed from Southampton on the 10th, at 11 A. M. The Africa arrived at Liverpool on the 9th, at 9 o'clock at night.

The house of Colman & Stotterfohl, London, has failed to the amount of £300,000, in consequence of forgeries by Robert T. Pries, corn dealer.

The overdue Australian arrived with £1,000,000 on board. The large export of goods to Australia continues.

It is again reported that Cavelos is recalled from Cuba, and that Guesdus is appointed Intendant, succeeding the late Villanueva.

Francis Madiali died in prison at Florence. The Turks have blockaded the Montenegro coast.

The steamer Magdalena, from Vera Cruz, with nearly \$2,000,000 arrived at Southampton on the 8th.

The new steamer Alpi arrived at Liverpool from Clyde. She will sail for New York on the 24th February.

The failure of Colman & Stotterfohl clears up the mystery of the late extraordinary operations in the London and Continental corn markets.—Two other houses have suffered from the forgeries of Pries to the amount of £27,000. Colman & Stotterfohl transacted an immense commission business in Germany and the United States.

The will of the Duke of Wellington is registered at £200,000.

FRANCE.

Four Legitimist members of the Legislature have resigned.

Prince Wagram has resigned the Senatorship in disgust because he was not appointed Grand Huntsman.

The Minister of Tuscany and the smaller German powers have presented credentials to the Emperor.

Baron Kisseleff is accredited Russian minister at Paris.

A passenger in the American ship Isaac Bell, was arrested at Havre for having a number of Socialist pamphlets on his person.

Bishop Ives, of South Carolina, made a public avowal of the Protestant religion at Rome, on the 26th Dec.

There is nothing of unusual interest from Spain.

PRUSSIA.

Count Schwern, elected President of the Second Chamber, is a moderate Constitutionalist.

ITALY.

A correspondent of the Times says there is a doubt that Francis Madaia poisoned himself. He complained of slow poison in his food. Madame M. still remains in prison.

TURKEY.

It is thought the difficulty between the Turks and Montenegros will be settled by the intervention of Russia and Austria.

The Divan refuses to regulate the affairs of the Bank of Constantinople.

The government has made compensation for the affairs of the British steamer Victory.

The latest London Gazette contains the official announcement of the blockade by the Turkish fleet of the whole coast of the Adriatic from Dubuiguo to the extreme Turkish frontier.

The Austrian government has declared Kosuth and his friends traitors.

Telegraphic dispatches say that the Montenegros have voluntarily abandoned the fortress of Zatsaljak at the instance of the Russian Consul at Ragusa.

It is reported that the steamer Africa when going into the Mersey was run into by a ship and received some damage.

COMMERCIAL NEWS.

Breadstuffs.—Flour, western canal, 27s 6d, Ohio 28s 6d; demand moderate. Corn has slightly advanced; yellow 35, white 37. Provisions.—Lard; sales moderate at last quotations. Provisions are generally in moderate request.

FREEDOM FROM COUGH IN TEN MINUTES.—When this announcement appeared in our advertising columns, accompanied by price only twenty five cents per box, we naturally supposed it a mere catch penny, but begin to regard it as a sober reality. As coughs, hoarseness, &c., are somewhat prevalent, we cannot perhaps render our readers a little favor better than to recommend to those who may be afflicted, to try "BRYAN'S PULMONIC WAFERS," to be had of the agent.

See advertisement.

They are pleasant to the palate, and their curative effects truly wonderful.—New Orleans Delta.

MR. BENTON AND CALHOUN.—Col. Benton has written to the National Intelligencer, defending himself from the charge of having "attacked the dying Calhoun." His note is accompanied by a letter from Mr. Venable, stating that when Mr. Calhoun appeared in the Senate last time, Mr. Benton was incensed that any one should either provoke or join in a discussion with him, on account of his enfeebled state. Mr. Benton, after stating that he intended to have joined issue with him, remarked:—"But when God lays his hands upon a man, I take mine off."

Anniversary of Belmont Co. Bible Society.

According to previous arrangement, the Board of Managers of the Society, members of various auxiliaries, and friends of the Bible cause, met in the Presbyterian Church, in St. Clairville, at 11 o'clock, A. M., Jan. 12, 1853. CRAWFORD WELCH, Esq., President of the Society, called the meeting to order. Rev. Jno. MUFFAT, of the Presbyterian Church, read the 10th psalm. Rev.

J. HENDERSON, of the Methodist Episcopal Church, offered prayer.

The report of the Depository was then read:

DEPOSITORY'S REPORT.

Belmont County Bible Society, in account with R. E. CRAWFORD, Depository:

Bibles and Testaments on hand
Jan. 15, 1852 96 78
" returned from Somerset township 9 00
" Bill from parent Society Aug. 21, 1852 136 34
Addition to retail prices to pay freight and exchange 18 64

Cr. \$349 76
Deduction in prices 2 90
Sales on credit 1 60
Donated Testament 7
Bibles and Testaments sent to Smith 26 00
Sales at Depository 14 89 \$43 46

Bibles and Testaments on hand \$204 30

Dr. CASH ACCOUNT.
1852.
Feb. 19—Cash from J. Kootz, Somerset 44
April 13 " " G. Shipman, Wayne 35
Dec. 10 " " A. W. Anderson, Pultney 47 20

\$37 thereof to constitute Thos. Cunningham a life member of Parent Society 47 20

1853.
Jan. 1—Cash from J. E. Grove, on his life sub 5 00
" 3 " " O. Reynolds, Kirkwood 3 00
" 4 " " W. Dunbar, Wheeling 4 43
" 12 " " M. E. Church, bal. collection last year 3 75
" " " Sales Bibles and Testaments 14 89

Cr. \$79 06
1852.
Sep. 10—Paid freight 7 08
1853.
Jan. 12—" Dr. H. West, Treasurer 71 98 \$79 06

Reports have been received from Union, Washington, Mead, Wheeling, Pultney and Kirkwood townships. The other townships have not reported this year. The books of the Depository and the reports from the above townships, show upwards of two hundred dollars worth of Bibles and Testaments in the hands of the Township Depositories.

Report from Smith township, received since the annual meeting, enclosing fourteen dollars, which is to their credit on the books of the Depository. \$7 24 from donations, and \$1 76, on account of sales of Bibles and Testaments.

TREASURER'S REPORT.
The report of the Treasurer was read: Belmont County Bible Society, in account with HENRY WEST Treasurer.

Dr. 1853.
Jan. 12—Cash from Depository 72 00
" " Martinsville Congregation on life membership J. Alexander, per Mr. Graham 11 00

From Union tp as follows:
Sales of Bibles and Testaments 3 18
From M. E. Church 5 00
" Presbyterian 3 97
" Associate Reform Church, Egypt 3 80
" Mr. Taggart's ch. 8 70 24 85

Cr. \$107 65
Cash paid Secretary, bill printing, postage, &c. 3 31
Pd. Rev. J. Graham, Agt. American Bible Soc. 79 69
Pd. sent from Union tp. B. Society 24 65 \$107 65

I have examined the accounts and vouchers of the Depository and Treasurer of the Belmont County Bible Society, and do find the same, as I believe, correctly stated in their reports.

J. E. GROVE, Auditor.

The Secretary presented his report as follows:

In presenting the annual report of the Belmont County Bible Society, it is to be regretted that we cannot make a more encouraging statement of the operations of the Society, and to the fact that the same state of inaction which has characterized them for some years. Others show considerable interest in the cause, and their contributions furnish satisfactory evidence of their zeal. The auxiliary in Kirkwood township has been re-organized under encouraging circumstances.

The Depository's report shows the care taken by the Board of Managers to furnish our auxiliaries with the suitable quantity and variety of Bibles. Any of our Township Societies needing more books should speedily procure a supply.

The experience of this Society from the outset shows the need of zeal on the part of the friends of the cause of Bible distribution. It is unreasonable to expect that those who care little for the scriptures will feel concerned about spreading the Bible either among our own population or in foreign lands. Facts showing the need of spreading the scriptures should be laid before the people.

Experience satisfactorily proves that wherever the state of the Bible cause is made known to the friends, appeals to their liberality in its support are not made in vain. The Board of Managers thankfully acknowledge the efforts made in this cause by our auxiliaries. They also rejoice that funds are raised in our county which reach beyond the limits of our Society through particular ecclesiastical organizations. It is proper to add that some congregations expect to raise contributions in a few weeks.

While the interests of the Society have not been neglected during the past year, there is certainly room to regret that more has not been done for the promotion of a cause so deserving of the support of all who regard the Bible as an important and spiritual well-being of man. May we not hope for better things for our next report?

The preceding reports were received and approved.

Messrs. SOLOGAN BENTLEY, Sr., ROBT. SNEY and S. GRASS were appointed a committee to nominate officers of the Society for the ensuing year. The recommendation of the committee was adopted as follows, viz:

President—CRAWFORD WELCH, Esq.
V. Presidents—ALL THE CLERGY of the county.

Treasurer—DR. HENRY WEST.
Deputy—R. E. CRAWFORD.
Auditor—JACOB E. GROVE.
Secretary—ALEXANDER YOUNG.

In the absence of Rev. WILLIAM GRIMES, from whom an address was expected, the Society called upon the Secretary for some remarks.

After a resolution directing the publication of the proceedings, the Society adjourned, closing with prayer by Rev. R. E. CRAWFORD.

CRAWFORD WELCH, Pres't.
ALEX. YOUNG, Sec'y.

COMMUNICATIONS.

BARNESVILLE, Jan. 25, 1853.

MR. HOWARD.—The accompanying Composition was read at the examination of Mr. Thompson's School, at this place, a few evenings since, by one of his pupils, a girl of fifteen years. Some passages in it struck me as being very beautiful, and I solicited a copy for your paper.

MUSIC.

Who does not love Music! None, save he that has no heart. Music has a wondrous, mysterious, and I almost said, divine power. It said that Mozart, the great German composer, was the most careless and childish of men, until seated at his piano, when he seemed to become inspired. This not to be denied, for a man who throws his whole soul into it, loses himself in a delightful dream. He is raised into a higher and holier state of existence, where he forgets the base and groveling things of this earth. Who can listen to the long-drawn, thrilling tones of the violin, the soft notes of the flute, or the light, airy music of the guitar, transporting our thoughts to the groves of Italy, the evening lattices of Madrid, or the moonlit waters of Venice, and say that music has no charms! The fancy of the ancients, in reference to the origin of music, is of the finest and most poetical kind. They aver, that from the motion of the heavenly orbs, there issued the soft floating of an ethereal melody, which the grosser ear of man hears not, but, which was audible to the holier spirits, and that thus, (literally speaking,) the morning stars sang together.

We have often been shaken with laughter, at hearing some ludicrous ditty, and again, have been brought almost to devotion, while listening to some hymn of more than ordinary sweetness. We have often been transported by the voice of some beloved one singing to us alone, and often by the mingling notes of a band of performers. These pleasures we felt with emotion. They touched all in our natures that was spiritual and immortal. Such pleasures we know to be pure, and holy.

How music cheers the blind, whose eyes are shut to the beauties of the external world. Milton, the poet, lost his sight, in the service of his country, and afterwards he would often refresh his soul with music. And oft how often those sightless balls that so often roll in vain to find the day, seemed to dilate and kindle, as the lyre poured forth its strains of inspiring melody.

What an effect music has upon patriotic emotion. See the weary and panting soldiers; they seem ready to sink under their load of exhaustion. But again how they are uplifted; how they rush on to battle with redoubled energy, at the welcome sound of music.

But music hath nobler triumphs than those achieved in the field of battle. The infant falls into gentle slumbers, while listening to the soft lullaby of some watchful mother, or nurse. The proud and haughty spirit of the hero is subdued by the spirit-stirring charm of song. The wayward youth, who has almost sold his soul to sin and Satan, is often roused from his profligacy, and been made to shed bitter tears of penitence, at the recurring notes of some simple melody that he has heard and sung so oft in childhood. The stern heart of man is lifted up in awe, while listening to of joining in the glorious anthems as sung in the sanctuaries of the Most High.

This said that the Marseilles Hymn will rouse the people of France to madness; and the British soldier dies in triumph if he can only hear the music of his native land.

The receptacle of the insane is another mark of the noble triumphs of music. The poor maniac lady as she leans over her piano; as she passes her fingers over the ivory keys that she has so often touched in happier and bygone days, the tide of recollection rushes upon her; her eyes roll less wildly; her tears begin to flow; and smiles that have so long been absent, are seen to play around that mouth, where but for the power of music they would have been seen no more. The pilgrims of old were wont to cheer their lonely way by singing.

Then let the fathers and mothers of families pay more attention to the cultivation of this indispensable art. To music shall the present world dissolve, for "The Trumpet shall sound."

For the Chronicle.

THE NEW CODE.

On the 4th of March, 1852, the Legislature, in pursuance of a provision in the new constitution, provided for the appointment of three Commissioners, to report a Code of Practice for the Courts of Record of this State. Soon after this, Gov. Wood, with the consent of the Senate, appointed William Kennon, W. S. Groesbeck, and Daniel O. Morton for that purpose. Jan. 15, 1853, they reported to the Legislature a book of 260 pages, purporting to be a "Code of Civil Procedure of the State of Ohio," leaving the Criminal and Probate Code for further report.

We have read this book, with its radical changes and arguments in support thereof, with some care. We have long advocated and been in favor of legal reform, believing that the administration of justice demanded a total abolition of the present forms of Judicial proceeding; and we rejoice that an important step, (perhaps a successful one) has been taken in that direction. It is, however, a matter of the first importance in the carrying out of all reforms, to avoid if we may so speak, the extreme of hankering upon the one hand, and the excess of radicalism upon the other. A well directed conservatism is the life-blood of all reforms. It is the opposite powers in nature that keep the Universe "as one stupendous whole," and preserves it in God-like harmony.

We know that it is much easier to raise objections than to answer them, and to say what we do not like than what we do. That it contains very many salutary reforms is conceded—that there is abundance of room for reformation, all will admit. The "Code" is now public property, and the reform which it proposes deeply concerns all the people in this State.

These three able lawyers, with the aid of a very expert Clerk, have been some ten months in preparing this "Code," the largest part of which is substantially copied from the various reforms adopted in New York, Missouri, Kentucky, and England. And the Commissioners inform us that "they have realized that its right performance requires more time and research than they have been able to bestow since they were appointed."

To adopt that form of proceeding which will effect the cheapest, speediest, and most perfect administration of Justice, is the end to be aimed at. Without further comment we will proceed to state some little in detail, our objections to this "Code of Civil Procedure," in the order in which they occur in the book.

1. On p. 27, sec. 24, it is provided that in order to avoid the effect of the plea of the statute of limitations upon a contract, the "acknowledgment of an existing liability or a promise to pay must be in writing, signed by the party to be charged thereby." The plea of limitation will never be set up by an honest man to avoid the payment of a claim or debt justly due. A man who is willing to put up his promise in writing, so as to avoid the operation of the statute, would never hesitate to give a new obligation—while he who did not intend to pay his debt, if he could avoid it by a plea of limitation, would always refuse to put his promise or acknowledgment in writing. If A. owes B. one hundred dollars, and the claim is not barred by the statute you will permit B. to prove by a witness that A. said he owed the debt and would pay it. Why should the rule be different if the claim is barred by the statute, for in neither case is the debt paid. If a man is promised to pay a debt within the period limited by the statute, or after it is barred, why not be allowed to prove that, like any other fact? It is said the temptation to perjury is too great—certainly not so great as in allowing a party to testify in his own case, for which the Code provides. Our law does not now require the acknowledgment or promise to be in writing, and we can see no satisfactory reason for the change.

2. It provides on p. 115, sec. 5 and 7, that after the evidence is closed in the case, and before argument by counsel, that the Court, if required, shall instruct the jury upon the questions of law arising in the case. It often happens that Lawyers are called upon to assist or argue a case without time for preparation; especially is it so in our lower courts, but during the investigation of the case, and while hearing the arguments upon the other side, he has time to make up his mind what legal position it is safe to assume for his client. The Court, who are but Lawyers, often need the time which is given them in the arguments of the cause to make up their minds as to the law they wish to give in charge to the jury. Of all sciences the law is the most comprehensive, the most technical, and requires often the closest discrimination in its application to the facts in a given case. The Court now after hearing the arguments and the application of the law to the facts, by the counsel on either side, can without much difficulty give a right instruction to the jury. With this we at least are satisfied.

3. On p. 116, sec. 270. If the jury disagree as to any part of the testimony given in the case, the Court is permitted to state to them "their recollection as to the testimony on the point in dispute," &c. We object to this provision, because the jury are made, and wisely too, the exclusive judges of the facts, and if twelve men cannot, after hearing the testimony from the witnesses at the stand, recollect it,—it is a misfortune which ought not to be provided against by allowing the Court to state their recollection of it. It is a power which no Court should be permitted to exercise. Let the practice remain as it is; no evil has resulted from it, or is likely to. The preservation of the liberty of the people, and the pure administration of justice depend upon keeping the exercise of each department of the government within its legitimate sphere. We should be jealous of the smallest encroachment of the duties which are assigned to the jury being exercised by the Court, and vice versa.

4. It provides, p. 164, sec. 339, "that action for libel, slander, malicious prosecution, assault, or assault and battery, for a nuisance, or against a Justice of the Peace for misconduct in office, shall abate by the death of the defendant." It is an old maxim of the law, that for every wrong there is a remedy. If it is right to allow a suit to be brought to recover damages for any one of the above causes of action, it is clearly right to allow the suit to